

SECTION 32

ADULT USE OF MARIJUANA

32.1 Statement of Purpose.

The purpose of this section is to provide for the limited establishment of Marijuana Retailers for the sale of non-medical use Marijuana products, as authorized pursuant to applicable state laws and regulations. It is the City's intent to permit only Marijuana Retailers under this section. In accordance with Section 1.2 of this Ordinance, all other marijuana-related uses shall be prohibited, with the exception of Medical Marijuana Treatment Center, also known as Registered Marijuana Dispensary (RMD), as may be permitted under Sections 2 and 5.1 Table of Uses. Prohibited marijuana-related uses include, but are not limited to, Cannabis Cultivation, Craft Marijuana Cooperative, Marijuana Cultivator, Marijuana Establishment, Marijuana Independent Testing Laboratory, Marijuana Microbusiness, Marijuana Process or Processing, Marijuana Product Manufacturer, Marijuana Research Facility and Marijuana Transporter.

32.2 Definitions

1. **Adult-use Marijuana** means Marijuana that is cultivated, Processed, Transferred, tested or sold to adults 21 years of age or older pursuant to M.G.L. c. 94G.
2. **Cannabis Cultivation:** The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. Such use is not agriculturally exempt from zoning. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.
3. **Colocated Marijuana Operations (CMO):** means an MTC operating under a License pursuant to 935 CMR 501.000: Medical Use of Marijuana and a Marijuana Establishment operating under at least one License pursuant to 935 CMR 500.000 on the same Premises. Colocated Marijuana Operations pertain to cultivation, product manufacturing, and retail licenses, but not any other adult-use License.

4. **Commission:** The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000.
5. **Consumer:** a person who is at least 21 years of age.
6. **Craft Marijuana Cooperative:** A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.
7. **Hemp** - The plant of the genus Marijuana or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Marijuana, or per volume or weight of marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Marijuana regardless of moisture content.
8. **Host Community:** A municipality in which a Marijuana Establishment is located or in which an applicant has proposed locating an establishment.
9. **Host Community Agreement** - The agreement that must be executed by and between the intended owner/operator of each marijuana establishment and/or each medical marijuana treatment center with the City of Woburn prior to the issuance of a license, from the state's Cannabis Control Commission or Massachusetts Department of Public Health, whichever is applicable, and covering, at a minimum, the topics identified in M.G.L. c.94G, §3(d).
10. **Licensee:** A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.
11. **Manufacture:** To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.
12. **Marijuana:** All parts of any plant of the genus Marijuana, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c.94G, §1; provided, however, that "marijuana" shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt,

derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

13. **Marijuana Accessories:** Equipment, products, devices or materials of any kind that are intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, ingesting, inhaling or otherwise introducing marijuana into the human body.
14. **Marijuana Cultivator:** An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.
15. **Marijuana Establishment** - A marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business, as those terms are defined in M.G.L. c.94G and 935 CMR 500.002, as they may be amended from time to time, but excluding from said definition, medical marijuana treatment centers, production areas within such centers, and medical marijuana cultivation operations as defined in Chapter 369 of the Acts of 2012 and as controlled this Ordinance.
16. **Marijuana Independent Testing Laboratory:** A laboratory that is licensed by the Commission and is:
 - (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission;
 - (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and
 - (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.
17. **Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD):** A not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to

registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

18. **Marijuana Microbusiness:** A colocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.
19. **Marijuana Process or Processing:** To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.
20. **Marijuana Products:** Products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures, but excluding all such items that are subject to the provisions of this Ordinance.
21. **Marijuana Product Manufacturer:** An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.
22. **Marijuana Research Facility:** An entity licensed to engage in research projects by the Commission.
23. **Marijuana Retailer:** An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of on-site social consumption on the premises of a Marijuana Establishment.
24. **Marijuana Transporter:** An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third Party Transporter.
25. **Propagation:** The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

26. **Provisional Marijuana Establishment License:** A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.
27. **RMD Applicant:** A previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.
28. **Unreasonably Impracticable** — This term shall mean that the measures necessary to comply with this Zoning Ordinance article and any conditions imposed pursuant to a special permit granted hereunder shall not subject licensees M.G.L. c.94G to unreasonable risk or require such a high investment of risk, money, time or any other resource or asset that a reasonably prudent businessperson would not operate a marijuana establishment.

32.3 **General Requirements**

1. Marijuana Retailer as defined in this Zoning Ordinance, may establish a location from which it may sell Marijuana products for non-medical use in accordance with applicable state laws and regulations.
2. A Marijuana Retailer that has previously received a special permit to authorize a Registered Marijuana Dispensary shall be required to amend its previously issued special permit to authorize the conversion to or co-location for the non-medical use of Marijuana.
3. Licenses and Registration. A special permit issued pursuant to this Section shall be conditioned on the Permittee maintaining all required state and local licenses and/or registrations and complying with all applicable state and local public health regulations and all other applicable laws, rules and regulations at all times. No Building Permit or Certificate of Occupancy shall be issued for a Marijuana Retailer that is not properly licensed and/or registered with the applicable state and local agencies.
4. Limitation of Approval. A special permit, Building Permit, or Certificate of Occupancy authorizing the establishment of a Marijuana Retailer shall be valid only for the licensed or registered entity to which the permit was issued, and only for the site on which the Marijuana Use has been permitted. If the license or registration for a Marijuana Use has not been renewed or has been revoked, transferred to another controlling entity, or relocated to a different site, a new special permit and building permit, where applicable, shall be required prior to issuance of a Certificate of Occupancy.

5. A Marijuana Retailer shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted within the building.
6. No Marijuana shall be smoked, eaten or otherwise consumed or ingested upon the premises of the Marijuana Retailer, and vending machines and other “self-service” devices are prohibited.
7. No Marijuana Retailer shall be located in a building that contains any residential units, including transient housing such as hotels or motels.
8. No Marijuana Retailer shall be located in any premises for which an alcoholic beverages license has been issued.
9. No Marijuana Retailer shall have a drive-up window or provide/offer any drive-thru service or curbside pickup.
10. All Marijuana Retailers shall comply with the sign requirements for the IP-2 zoning district.

32.4 Operation Standards for Marijuana Retailers.

1. Marijuana Retailers shall be allowed only by special permit granted by the City Council, and only in the IP-2 zoning district as set forth in Section 5.1 Table of Use Regulations. A special permit is required in addition to, and not in lieu of, any other licensing and permitting requirements imposed by federal or state law.
2. The number of Marijuana Retailers shall be limited to no more than 20% of the number of licenses issued within the City for the retail sale of alcoholic beverages not to be drunk on the premises pursuant to M.G.L. c.138, §15. In accordance with M.G.L. c.94G, on the effective date of this Ordinance the number of marijuana retailers shall be limited to no more than two (2).
3. All Marijuana Retailers shall comply with all regulations promulgated by the Cannabis Control Commission.
4. No special permit shall be issued until an applicant has successfully negotiated a Host Community Agreement with the City.
5. A Marijuana Retailer shall not be permitted within one thousand (1,000) feet of another Marijuana Retailer, except if the applicant has been designated as an Economic Empowerment Applicant or certified as eligible to participate in the Social Equity Program by the Massachusetts Marijuana Control Commission and

it is made a condition of the special permit that such designation or eligibility shall be maintained.

6. The retail area of any Marijuana Retailer shall be limited to 5,000 square feet.
7. All products offered to consumers shall be pre-packaged off-site, and no packaging or repackaging of Marijuana or marijuana products shall take place on the premises of a Marijuana Retailer.
8. Marijuana accessories may only be sold by a properly licensed Marijuana Retailer or Medical Marijuana Dispensary.
9. A special permit issued for a Marijuana Retailer is not transferable nor assignable to a different location or to a different type of Marijuana Establishment.
10. Marijuana Retailers shall be exempt from Section 18, Mitigation, of this Ordinance.

32.5 Buffer Zones.

1. A Marijuana Retailer shall not be permitted within 500 feet of a pre-existing public or private school providing education in kindergarten or any of grades one through 12, or any pre-existing preschool or childcare facility.
2. A Marijuana Retailer shall not be permitted within 500 feet of a pre-existing public children's playground, public youth athletic field, or public youth recreation facility, except where the City Council, in issuing a special permit, approves a reduced distance upon finding that the location will cause no substantial adverse impact due to site-specific factors or other mitigating efforts agreed to in writing by the permittee and made conditions of the special permit.

32.6 Parking and Transportation.

1. Off-street parking for employees and customers shall be regulated by Section 8, Off Street Parking and Loading Facilities Regulations, of this Ordinance. Provisions set forth in Section 8 that allow for a reduction or waiver of required off-street parking shall apply except that required off-street parking for delivery vehicles may not be waived, as set forth below.
2. All Marijuana Retailers shall submit an Operations and Logistics Plan to the Woburn Police Chief or their designee, and to the Building Commissioner or their designee, before applying for a special permit, building permit, or certificate of

occupancy, whichever occurs sooner. Such plan shall include the following information using narratives and graphics:

- (a) hours of operation and anticipated numbers of employees and consumers on-site during operating hours;
- (b) expected frequency of loading/unloading trips by delivery and service vehicles;
- (c) access and egress routes for customers and employees;
- (d) locations of parking and bicycle parking areas for customers and employees;
- (e) number of delivery vehicles, where applicable, and locations where they will be stored on-site;
- (f) locations where loading/unloading and service activities will take place and a description of how such activities will be conducted;
- (g) a description of transportation options for customers and employees, including public transportation services, on-site and off-site parking facilities, transportation demand management measures to encourage and support sustainable forms of travel for employees and customers, and short-term and long-term bicycle facilities;
- (h) specific measures that will be employed by the Marijuana Retailer to prevent adverse impacts on the public way including but not limited to sidewalk crowding, blocking of vehicular or bicycle travel lanes, potential safety hazards, and other issues identified by City departments; and
- (i) a specific plan for the initial opening period that includes measures to identify and respond to unexpected impacts.

4. The Woburn Police Chief in conjunction with the Building Commissioner shall approve a final Operations and Logistics Plan prior to issuance of a certificate of occupancy for a Marijuana Retailer, and may require operational practices to prevent or correct adverse impacts of the operation of the Marijuana Retailer on the public way, including but not limited to crowding on the public sidewalk, blocking of travel lanes by vehicles, or hazardous conditions. Such practices may include, but are not limited to, restrictions on the use of the public way, required pre-purchase and/or appointment-only customer service for a period of time, restrictions on the location and/or timing of loading/unloading activities, or similar measures. When granting a special permit, where applicable, the City Council may also include conditions pertaining to the Operations and Logistics Plan.

32.7 Application Requirements.

The Special Permit application shall contain, at a minimum, the following information:

1. Description of Activities: a narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not

limited to, on-site sales, distribution of educational materials, and other programs or activities.

2. Context Map: A map identifying, at a minimum, the location of the proposed establishment, the locations of all other Marijuana Retailers in the vicinity, the locations of all public or private schools providing education in kindergarten or any of grades one through 12, childcare facilities, preschools, and the locations of all children's playgrounds, youth athletic fields, or other youth recreation facilities, with measured distances provided to demonstrate whether the location complies with the standards of Section 32.4 above.
3. Site Plan: A plan or plans depicting all existing and proposed development on the property, including the dimensions of the building, the detailed layout of automobile and bicycle parking, the location of pedestrian, bicycle and vehicular points of access and egress, the location and design of all loading, refuse and service facilities, the location, type and direction of all outdoor lighting on the site, and any landscape design.
4. Building Elevations and Signage: Architectural drawings of all exterior building facades and all proposed signage, specifying materials and colors to be used. Perspective drawings and illustrations of the site from public ways and abutting properties are recommended but not required.
5. Initial Operations and Logistics Plan: Containing the information set forth in Paragraph 4 of Section 32.5 above.
6. License or Registration Materials: Copies of all materials submitted to applicable state and local agencies for the purpose of licensing and/or registration, and any certification or license issued by any such agency, excluding any information required by law to be kept confidential.
7. A filing fee of \$1,500.00 plus the cost of advertising notice.

32.8 Special Permit Criteria.

In granting a special permit for a Marijuana Retailer, in addition to the general criteria for issuance of a special permit as set forth in Section 11 of this Ordinance, the City Council shall find that the following criteria are met:

1. The site is designed such that it provides convenient, safe and secure access and egress for customers and employees arriving to and leaving from the site using all modes of transportation, including drivers, pedestrians, bicyclists and public transportation users.

2. On-site loading, refuse and service areas are designed to be secure and shielded from abutting uses.
3. The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior and/or from restrictions on direct access by consumers.
4. The location and design of the Marijuana Retailer will not detract from the sense of activity with opaque, unwelcoming façades at the ground floor. Where interior activities must be screened from public view or where there is no access by customers, such areas should be screened by transparent, publicly accessible active business uses where possible. Opaque façades should be minimized, and where they are necessary they should include changing public art displays or other measures to provide visual interest to the public.
5. If the proposed Marijuana Retailer is not proposed to include a Medical Marijuana Treatment Center, it will nevertheless provide programs to assist qualifying patients within the city or neighborhood who are registered through the Massachusetts Medical Use of Marijuana Program in obtaining services under that program.

(Added 9/22/2022)